

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WAYNE ELIJAH JONES,

Plaintiff,

v.

WASCO STATE PRISON, *et al.*,

Defendants.

Case No. 1:23-cv-00543-BAM (PC)

ORDER CONSTRUING COMPLAINT OF
JUDICIAL MISCONDUCT AS A MOTION
AND DENYING AS MOOT

(ECF No. 11)

Plaintiff Wayne Elijah Jones (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On April 7, 2023, the Court issued an order directing Plaintiff to submit an application to proceed *in forma pauperis*, completed and signed, or in the alternative, to pay the \$402.00 filing fee for this action, within forty-five days. (ECF No. 5.) Plaintiff filed a completed motion to proceed *in forma pauperis* on April 24, 2023, (ECF No. 7), and the motion was granted on April 26, 2023, (ECF No. 10).

On May 22, 2023, Plaintiff filed a document titled “Complaint of Judicial Misconduct or Disability.” (ECF No. 7.) The document appears to be a form AO 310 used to file complaints regarding judicial misconduct against federal judges. Although it appears that Plaintiff intentionally filed the document in this action, the form itself does not appear to raise any allegations against the undersigned, but rather references other cases filed before the United States District Court for the Southern District of California, the Ninth Circuit Court of Appeals, and the United States Supreme Court. (*See id.* at 1, 4, 7.) Plaintiff also attaches a copy of the Court’s April 7, 2023 order directing him to submit an application to proceed *in forma pauperis*. (*Id.* at 9.) Although Plaintiff sets forth a litany of issues, ranging from ineffective assistance of trial counsel and violations of the U.S. Constitution to privacy rights and discrimination, none of

1 these complaints appear to be directed to this Court, the undersigned, or this action.

2 To the extent Plaintiff is attempting to file a Complaint of Judicial Misconduct or
3 Disability related to the undersigned or any other federal judge, Plaintiff is informed that pursuant
4 to the Rules for Judicial-Conduct and Judicial-Disability Proceedings, complaints “must be filed
5 with the circuit clerk in the jurisdiction in which the subject holds office.” Rules for Judicial-
6 Conduct and Judicial-Disability Proceedings, Rule 7(a)(1). Filing such a complaint with the
7 District Court Clerk or in a particular lawsuit is not the appropriate procedure.

8 As a Complaint of Judicial Misconduct is not an appropriate filing in this case, the Court
9 will disregard the filing as moot.

10 To the extent Plaintiff was attempting to request recusal of the undersigned from this
11 action, Plaintiff has failed to present any argument sufficient to show personal bias or prejudice
12 by the undersigned, and such request is denied. *See* 28 U.S.C. § 455 (A magistrate judge must
13 disqualify himself if “his impartiality might be reasonably questioned,” or if “he has a personal
14 bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts
15 concerning the proceeding[.]”)

16 At this time, there are no other pending deadlines in this case that require Plaintiff to take
17 any action. Plaintiff’s complaint will be screened in due course.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. Plaintiff’s complaint of judicial misconduct or disability, (ECF No. 11), is CONSTRUED
20 as a motion; and
- 21 2. Plaintiff’s motion regarding complaint of judicial misconduct or disability, (ECF No. 11),
22 is DENIED as moot.

23 IT IS SO ORDERED.
24

25 Dated: May 25, 2023

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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